THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.6147 of 2006

Dt.28.3.2006

Between:

E.Gopal Rao and others … Petitioners

And

The District Collecltor (P.Raj.),

Krishna at Machilipatnam and another

…Respondents

ORDER:

Petitioners herein are Sarpanchs of Mundlapadu Gram Panchayat, Penugonchiprolu Mandal, A.Agraharam Village of Jaggaiahpet Mandal, Chennaraopalem Gramapanchayat and Gokerajupalli Gramapanchayat of Veerullapadu Mandal of Krishana District respectively. They have been elected as Sarpanchs of the said Gram Panchayats during August, 2005 and their term will expire by August, 2006. While so, the first respondent issued the impugned notice in Roc.No.1913/2005 dated 16.3.2006 stating that the petitioners have

failed to produce the records for audit for the year 2004-05 as the records have to be produced before 31.12.2005 and accordingly the petitioners have incurred disqualification under Section 20-B of the A.P.Panchayat Raj Act, 1994 (for short 'the Act'). It is stated that the District Audit Officer vide letter dated 16.1.2006 informed that the petitioners have failed to produce the records before 31.12.2005 in auditing the accounts of the said Gram Panchayats for the year 2004-05 and therefore the impugned notice have been issued informing that the petitioners have incurred disqualification to continue as Sarpanchs and accordingly requested the Upa-Sarpanchs to take over the entire records from the disqualified Sarpanchs till the said vacancies are filled.

It is the case of the petitioners that under Section 20-B of the Act if a Sarpanch fails to get accounts of the Gram Panchayat audited within the prescribed period as required under the proviso to sub-section (3) of Section 266, he gets disqualification and ceases to hold the office of the Sarpanch. The authority to decide questions of disqualification of members of Gram Panchayat as per Section 22 of the Act is the District Court. The provisions of Sections 18 to 22 of the Act shall also apply in relation to the office of the Sarpanch as per Section 14(6) of the Act. Under Section 22 of the Act if a Sarpanch incurred disqualification under Section 20-B the authority has to intimate the allegation of the disqualification through the District Panchayat Officer and if the Sarpanch disputes the correctness of the allegation so made or entertains any doubt that he has not become disqualified under Section 20-B of the Act either the Sarpanch or the executive authority or the Commissioner of Panchayat Raj are entitled to apply to the District Court having jurisdiction over the area for decision to decide the question of disqualification.

Heard the learned counsel for the petitioners and the learned Government Pleader for Panchayat Raj on behalf of the respondents.

The issue raised in this writ petition is squarely covered by the Division Bench of this Court in ***Chava Rosaiah v Chintala***

Venkateswarlu wherein it has been held that District Judge is alone competent to decide the question of disqualification when there is a duty cast on the executive authority at the direction of the gram panchayat or the Commissioner shall apply to the District Court for a decision on the allegation made by the authority. It is also open for the Sarpanch or member of the Gram Panchayat to apply for decision to decide qualification and pending such decision the Sarpanch is entitled to act as if he is not disqualified.

For the aforesaid reasons, I am of the opinion that the first respondent has exceeded his jurisdiction in issuing the impugned proceedings holding that the petitioners have incurred disqualification under Section 20-B of the Act without any jurisdiction. Accordingly, the impugned proceedings are set aside keeping it open for the appropriate authority or person to apply to the District Court against the petitioners to decide questions of disqualification of the petitioners.

The writ petition is allowed accordingly. No order as to costs.

V.ESWARAIAH, J.

28.3.2006

Note : Issue copy within three days

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